

INDUSTRY CIRCULAR

OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE
ALCOHOL AND TOBACCO TAX DIVISION



Industry Circular No. 59-57

November 16, 1959

AMENDMENT OF REGULATIONS IN 26 CFR PARTS 270 AND 275

Manufacturers and importers of tobacco products
and proprietors of customs bonded cigar
manufacturing warehouses, class 6:

Purpose. This industry circular is to advise you of the amendment of regulations in 26 CFR Parts 270 and 275 by Treasury Decision No. 6424, published in the Federal Register of November 10, 1959 (24 F. R. 9141), effective January 1, 1960, and to acquaint you with some of the amendments.

Background. You were advised in Industry Circular No. 59-38, dated June 2, 1959, regarding the notice of proposed rule making published in the Federal Register of May 27, 1959, which would amend the regulations in 26 CFR Parts 270 and 275, principally to implement the Excise Tax Technical Changes Act of 1958. No objections to the proposed rule making were received during the period of 30 days prescribed in the notice. However, several proposed amendments to sections of the regulations in 26 CFR Parts 270 and 275, as published in the notice of proposed rule making, have been eliminated because they were in conflict with the regulations in Subpart E of 26 CFR Part 296, entitled "Interim Regulations for Taxpayment of Cigars, Cigarettes, and Manufactured Tobacco by Return," which were published in the Federal Register on June 6, 1959, and became effective June 24, 1959.

Amendments. The adopted amendments of a substantive nature are described below:

1. Section 270.60 Cigar tax rates. A new sentence has been added to this section to provide that cigars not exempt from tax which are removed but not intended for sale (such as those removed for distribution to consumers or prospective customers, for sampling, testing, or advertising purposes) shall be taxed at the same rate as similar cigars removed for sale.

2. Section 270.61 Classification of large cigars. A clarifying change has been made in this section by the addition to the third sentence of the words "exclusive of any State or local taxes imposed on the retail sale of cigars" to make it clear that such taxes are not to be considered in determining the ordinary retail price of a single cigar in its principal market, for Federal tax purposes.

3. Sections 270.63a and 275.50a Persons liable for tax. These new sections have been added to prescribe that when cigars, cigarettes, or manufactured tobacco are transferred by the manufacturer, without payment of tax, to another manufacturer of such products or to an export

warehouse proprietor, the transferee becomes liable for the tax upon receipt of the products and the transferor is relieved of his liability for the tax and, similarly, to prescribe that when cigars, cigarettes, or manufactured tobacco are released in bond from customs custody, the transferee becomes liable for the tax upon release from customs custody and the importer is relieved of his liability.

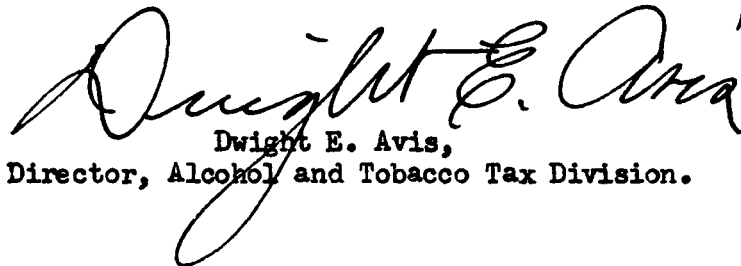
4. Sections 270.90 and 275.80. Issuance of permit. These sections have been amended to prescribe that the permit of a manufacturer shall be on Form 2096, revised October 1958 as a universal form of permit, to be issued to persons qualifying under the provisions of Chapter 52, I. R. C., and that the permit is to be retained in the factory readily available for inspection upon request. A manufacturer who is presently operating under a permit on Form 2094 or 2095 will continue to operate under such permit.

5. Sections 270.165, 270.198, 275.154, and 275.187. Claim for redemption, or refund of the value, of stamps. These sections prescribe that stamps which have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the manufacturer or importer of such products has no use, may be redeemed, if the claim is filed with the assistant regional commissioner for the region in which the stamps were purchased within 3 years after their purchase from the Government. These sections also provide that the value of stamps affixed to packages of cigars, cigarettes, or manufactured tobacco may be refunded to the manufacturer or importer, where such products are withdrawn by him from the market or are lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in his possession or ownership, if claim is filed with the assistant regional commissioner for the region in which the tax was paid or, where the tax was paid in more than one region, with the assistant regional commissioner for any one of the regions in which tax was paid, within 6 months after the date of withdrawal from the market, loss, or destruction of the products to which the claim relates.

Please note that this Treasury Decision changes the place of filing claims for the refund of the value of stamps affixed to packages of cigars, cigarettes, and manufactured tobacco withdrawn from the market. Until January 1, 1960, you should continue to follow existing procedures concerning claims for refund of the value of stamps affixed to packages of cigars, cigarettes, and manufactured tobacco withdrawn from the market. On and after January 1, 1960, such claims should be filed with the assistant regional commissioner for the region in which the tax was paid by the affixture of stamps or, where the tax was so paid in more than one region, with the assistant regional commissioner for any of the regions in which tax was so paid. Request for the assignment of an inspector should continue to be made to the assistant regional commissioner (alcohol and tobacco tax) for the region in which the products are assembled.

Definitions. The definitions of "Dealer in tobacco materials," "Manufacturer of tobacco," and "Manufactured tobacco" have been amended to clarify and achieve a more complete and realistic meaning of the terms. The definitions of "Manufacturer of cigars and cigarettes" and "Importer" have been amended to continue the longstanding construction that a proprietor of a customs bonded manufacturing warehouse, which is entirely under customs jurisdiction and supervision, shall not be regarded as a domestic manufacturer of cigars and cigarettes for internal revenue purposes.

Inquiries. Inquiries in regard to this industry circular should refer to its number and be addressed to the office of your assistant regional commissioner (alcohol and tobacco tax).


Dwight E. Avis,
Director, Alcohol and Tobacco Tax Division.

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